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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,863	01/30/2004	Patrick R. Lancaster III	2906.0359-00	2966

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Washington, DC 20005-3315

EXAMINER

TAWFIK, SAMEH

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/767,863

Applicant(s)

LANCASTER ET AL. *cd*

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-119 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-119 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-48, 89-93, 97, 98, and 101-119, drawn to an apparatus for wrapping a load, classified in class 053, subclass 556.
- II. Claims 50-88, 94-96, 99, and 100, drawn to a method for wrapping a load, classified in class 053, subclass 399.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group II and Group I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by hand.

In case applicants elect Group I, then they are require to elect one of the following groups:

1. Claims 1-8, 112-114, 116, and 117;
2. Claims 9-19 and 119;
3. Claims 20-34, 93, and 115;
4. Claims 35-38 and 89-92;
5. Claims 39-48, 97, and 98;
6. Claims 101-11;
7. Claim 118.

Inventions 1-3 and 5-7 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions as defined by the claims of each of the groups neither recites nor requires the inventions as defined by the claims of the other groups. For example, group 1 refer to means for rolling a portion of the film web into a cable includes using of a guide roller; group 2 referring to using at least one guide roller which is not the same as the means for rolling the web into a cable; group 3 referring to a first guide roller configured to engage *a portion of a width* of the film web, group 5 referring to coated guide roller, group 6 referring to movable drive roller between an engaged position and a disengaged position, and further group 7 referring to a tilted bar engaging the film.

Inventions groups 1-3 and 5-7 and group 4 are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require to have driving means to drive at least a portion of the film web to an elevation below a tope of a pallet wherein the means including one selectively engageable roller positionable to engage a width of the film web. The subcombination has separate utility such as driving means to drive at least a portion of the film web to an elevation below a tope of a pallet wherein the means including one selectively engageable roller positionable to engage a width of the film web.

In case applicants elect Group II, then they are required to elect one of the following groups:

1. Claims 50-52 and 54-57;
2. Claims 59-63;
3. Claims 64-72, 58, 88, and 94;
4. Claims 73-78, 86, 87, 96, 99, and 100
5. Claims 79-85 and 53;
6. Claim 95.

Inventions groups 1-6 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions as defined by each of the claimed groups 1-6 neither recites nor requires the inventions as defined by the claims of each of groups 1-6. For example, group 1 recite a groove in a roller for forming a cable rolling roper; group 2 recite cable rolling roper positioned adjacent to a guide roller; group 3 recite driving a portion of the film web downward to an elevation below a top of a pallet; group 4 recite driving portion of the film web and cable downward to a second elevation; group 5 recite biasing portion of the film web to narrow its width; wherein group 6 recite moving a roller into engagement with a film path and out of engagement with the film path.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was attempt to Ms. Elizabeth Burke on 01/25/2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik
Patent Examiner
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A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line that tapers to the right, and a second line below it that also tapers to the right.

ST.